

IN THE COURT OF COMMON PLEAS

CIVIL DIVISION

HAMILTON COUNTY, OHIO

CASE NUMBER: A 1402190

JUDGE STEVEN E. MARTIN

MCKENZIE DAVIS, ET AL.

PLAINTIFFS

VS.

DELHI TOWNSHIP, OHIO, ET AL.

DEFENDANTS

* * * * *

DEPONENT:

LARRY DEHUS

DATE:

DECEMBER 16, 2015

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Mindy Davis

Certified Court Reporter

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1 The deposition of LARRY DEHUS, taken for the
2 purpose of discovery and/or use as evidence in the
3 within action, pursuant to notice, heretofore taken
4 at the Law Offices of Blake Maislin, 2260 Francis
5 Lane, Cincinnati, Ohio , on December 16, 2015, at
6 9:00 a.m., upon oral examination, and to be used in
7 accordance with the Ohio Rules of Civil Procedure.

8 * * * * *

9 APPEARANCES

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22 * * * * *

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1 LARRY DEHUS,
2 called on behalf of the Defendants, after having
3 been first duly sworn, was examined and deposed as
4 follows:

5 CROSS-EXAMINATION

6 BY MR. RINEAR:

7 Q. Good morning. Will you state your full
8 name for the record?

9 A. Sure. Larry M. Dehus, D-E-H-U-S.

10 Q. Mr. Dehus, my name is Rick Rinear. I
11 represent the Dungeons of Delhi and two of their
12 volunteers who are defendants in this lawsuit, okay?

13 A. Yes.

14 Q. Did you happen to bring with you a current
15 copy of your CV?

16 A. I did, yes.

17 (Defendant's Exhibit 1 was marked for
18 identification.)

19 Q. I've marked what you handed me as
20 Exhibit 1. Do you have a copy of that to refer to
21 or do you feel you need to?

22 A. I probably don't need to.

23 Q. Okay. Is this CV up-to-date?

24 A. Yes, it should be.

25 Q. And did you bring with you, by any chance,

1 a copy of your testimony history?

2 A. Not actually my testimony history. I did
3 bring a list of cases that I thought might be
4 applicable to this case, and that is a list of slip
5 and fall, trip and fall cases that totals 162. It
6 gives the attorney's name, the client's name, and
7 whether I gave a deposition or trial testimony.

8 Q. Okay. We'll get to that in a minute.

9 What is your address, your office address?

10 A. 326 South Miami Street, West Milton, Ohio.

11 Q. Are you generally from the Greater
12 Cincinnati/Dayton area?

13 A. Yeah. That's actually Miami County. I'm
14 from the Miami County area, yeah.

15 Q. Okay. Does your CV set forth your
16 educational history?

17 A. It's a brief summary, yes.

18 Q. It shows here you got a high school degree
19 in 1965, a bachelor of science in biology with a
20 minor in chemistry and psychology, correct?

21 A. Yes.

22 Q. Masters of science in biology and
23 biochemistry from Wright State, correct?

24 A. Yes.

25 Q. And then you have some additional training

1 in various areas of forensic science?

2 A. Yes.

3 Q. Is any of that educational history that
4 you have, in your opinion, focused on some area that
5 would give you expertise in falling type accidents?

6 A. Not the degrees or the training that's
7 listed on the CV. As I'd indicated, this is kind of
8 a summary and doesn't go into detail a lot of the
9 other areas of training. And I would tell you that
10 I've had training through seminars on the science
11 and physics and engineering aspects of trip and fall
12 cases and have established a library of research
13 articles on that topic.

14 Q. Explain to me how in trip and fall cases
15 you have -- what's your expertise? What do you
16 consider your expertise to be in that area?

17 A. Well, I mean, there's the actual human
18 dynamics of the trip and fall procedure, so that's
19 one area of consideration. Another area of
20 consideration is the coefficient of friction. And
21 that's the coefficient of friction between the
22 walking surface and the shoes that an individual is
23 wearing at the time of an accident. The other areas
24 of expertise include training on building code to
25 see whether or not violations of building code

1 contributed to a trip and fall accident. I guess
2 those are the main areas.

3 Q. Okay. Looking at your CV on page 2, it
4 indicates for the past 30 years you've been the
5 owner and president of Law-Science Technologies; is
6 that correct?

7 A. Yes.

8 Q. What does Law-Science Technologies do?

9 A. Law-Science Technologies is a forensic
10 testing and consulting laboratory. I have four
11 other -- there are four other employees besides
12 myself and we do accident reconstruction. Mainly
13 when I say accident reconstruction, I mean, vehicle,
14 pedestrian, motorcycle, bicycle, and general
15 industrial accidents, various types of accidents.
16 And then I have people that have expertise that do
17 fire origin and cause investigations. And then I do
18 the criminal evidence testing and evaluation,
19 consulting on criminal evidence, and also have
20 expertise in different other areas, including this
21 area of slip and fall, trip and fall.

22 Q. What percentage of Law-Science
23 Technologies' work is done for some area of
24 litigation or other courtroom cases?

25 A. Well, 100 percent of it is done for what

1 potentially could develop into courtroom litigation
2 if we're not hired specifically for a case that's in
3 litigation where we would be hired on a case that
4 would potentially lead to litigation. A good
5 example would be a fire case that an examiner may go
6 out on and find evidence of a defective product or
7 installation and then that goes to subrogation and
8 then obviously eventually to trial, or potentially
9 to trial. So all of our work is related to
10 potential litigation.

11 (Defendant's Exhibit 2 was marked for
12 identification.)

13 Q. I've marked as Exhibit 2 the list you gave
14 us of your testimony history on what you've marked
15 as slip/trip and fall cases, correct?

16 A. Yes.

17 Q. And this looks like it starts in 1985 and
18 goes to the present; is that correct?

19 A. Yes, sir.

20 Q. Do you have a listing that you keep that's
21 required by the federal courts that lists all of
22 your testimony history for a certain period of time?

23 A. Yes, I believe my secretary has a record
24 of that.

25 Q. Okay. And in litigated matters, give me

1 your best estimate of the percentage of your work
2 that you do on the plaintiff side versus on the
3 defendant side.

4 A. Would you be referring to just what I do
5 or the entire business?

6 Q. Let's start with you first.

7 A. You know, that's not a record that we
8 keep, but I would tell you it's probably pretty
9 close to 50/50 for both myself and for the business.

10 Q. Have you ever had a Daubert challenge
11 brought against you? You understand what a Daubert
12 challenge is?

13 A. Yeah. I've testified at a couple Daubert
14 hearings.

15 Q. Okay. Have you ever had a case where a
16 Daubert challenge, the ruling was that your
17 testimony was excluded or limited in any way?

18 A. No. I think there was one Daubert hearing
19 where part of my testimony was excluded because I
20 think the court determined that it didn't really
21 require scientific -- it was more of a nonscientific
22 evaluation, but not -- I've never been disqualified
23 in a Daubert hearing to testify on whatever
24 scientific analysis I've done.

25 Q. Okay. But there is one case that you were

1 limited or disqualified because the court said it
2 didn't require expert testimony?

3 A. Limited, yes.

4 Q. And do you recall when and where that case
5 was?

6 A. I'm sorry, I don't.

7 Q. Relative to this case, can you explain for
8 me what areas you believe you qualify as an expert
9 witness?

10 A. Well, I think I qualify as an expert
11 witness in the area of certainly trip and fall in
12 relation to surface conditions and general
13 environmental conditions. And then from a safety
14 aspect, qualify with respect to what is safe
15 activity or behavior and what's not safe activity or
16 behavior.

17 Q. And what background, education or
18 experience do you have that qualifies you as an
19 expert to opine on what constitutes safe activity or
20 safe behavior?

21 A. Again, just the many cases that I've been
22 involved in as well as the research and specialized
23 training.

24 Q. You're not a biomechanical engineer,
25 correct?

1 A. I am not, correct.

2 Q. You're not an engineer?

3 A. Correct.

4 Q. Have you ever been involved in a case
5 involving a haunted house?

6 A. Yes.

7 Q. What case is that?

8 A. I can't give you the name of the plaintiff
9 or the defendants. It was in Darke County, Ohio,
10 involved a -- I guess for want of better
11 terminology, an Agra entertainment type venue where
12 they had a haunted barn and there was a lady that
13 was injured going through that event.

14 Q. How was she injured? Did she fall or what
15 happened?

16 A. No, it involved a slide that people went
17 from one level to another level, and it was an
18 improper and unsafe design that resulted in her, I
19 believe, breaking both ankles.

20 Q. So in that case it was a question of the
21 safety of the design and use of the slide, correct?

22 A. Yes.

23 Q. It really had nothing to do with the fact
24 that it wasn't a haunted house, per se, correct?

25 A. Well, that was interior space that was not

1 well-lighted, but the scare factor was not part of
2 the incident.

3 Q. Have you ever been involved in any case
4 where the scare factor of a haunted house was part
5 of the issue?

6 A. No.

7 Q. What is your understanding of the nature
8 and purpose of a haunted house?

9 A. Well, certainly it is to entertain and
10 part of that entertainment involves a scare factor.

11 Q. Would you agree that the intent of a
12 haunted house is to surprise patrons?

13 A. Yes.

14 Q. To scare patrons?

15 A. Yes.

16 Q. To startle patrons?

17 A. Yes.

18 Q. And the intent is to cause patrons to
19 react to the exhibits and the actors, right?

20 A. With the -- actually it depends on the
21 sophistication of the patron. It may be to laugh at
22 the silliness of it, whereas another patron may be
23 frightened by the event.

24 Q. And certainly you can have different
25 reactions to the same events by different patrons,

1 right?

2 A. True.

3 Q. And you understand that haunted houses,
4 such as the Dungeons of Delhi, are staffed by actors
5 and actresses in costume, correct?

6 A. Sure. I don't know if I would refer to
7 them as actors and actresses, but I would maybe call
8 them players.

9 Q. Okay. And you agree from reading McKenzie
10 Davis' deposition that she understood all of these
11 things about what haunted houses are that we just
12 discussed, right?

13 A. I believe so, yes.

14 Q. Do you have an understanding of how long
15 this haunted house, the Dungeons of Delhi, has been
16 in existence?

17 A. I can't give you the exact, but I think it
18 was in existence for several years prior to this
19 accident.

20 Q. Do you have any knowledge of their days,
21 weeks or hours of operation?

22 A. Obviously it's just prior to Halloween,
23 weeks prior to Halloween, but the exact number of
24 days and the hours I'm not familiar with.

25 Q. Do you have any evidence as to any prior

1 injuries or incidents that occurred at the Dungeons
2 of Delhi in any way similar to the plaintiff's
3 incident?

4 A. I do not.

5 Q. Do you have any evidence as to any prior
6 complaints from patrons about the Dungeons of Delhi
7 haunted house?

8 A. I am not aware of any, have not had really
9 access to that information.

10 Q. Okay. Do you know who owned the property
11 where the haunted house was held?

12 A. No, I don't.

13 Q. Do you know whether the Dungeons of Delhi
14 as an entity owned the property where the haunted
15 house was held?

16 A. I don't believe so.

17 Q. In your history, have you ever owned or
18 operated a haunted house?

19 A. Not a haunted house, per se, but I was
20 involved in setting up and operating a haunted
21 hayride.

22 Q. Okay. When was that?

23 A. Oh, let's see, that would have been
24 probably about 10 years ago.

25 Q. Was that for one season or more than one?

1 A. We did it for two seasons.

2 Q. And where was that?

3 A. That was in Union, Ohio. It was sponsored
4 by the West Milton Rotary Club, and I was a member
5 of that club and participated as a result of that.

6 Q. Did you own or manage this haunted
7 hayride?

8 A. Well, I didn't own it. I guess maybe I
9 kind of comanaged it.

10 Q. Have you ever owned or managed any other
11 haunted house or similar type of event?

12 A. No.

13 Q. Have you ever designed a haunted house?

14 A. No.

15 Q. Other than this haunted hayride, have you
16 ever worked at a haunted house in any capacity?

17 A. No.

18 Q. Have you ever been to a haunted house?

19 A. I don't know about a haunted house, per
20 se. I've been to a haunted cave. I think maybe one
21 other event, but I don't believe it was a haunted
22 house, per se, but a Halloween event.

23 Q. Are you able to cite to me today any state
24 or federal statute, rule, regulation, standard,
25 industry standard or any other standard that governs

1 the operation of a haunted house?

2 MR. MAISLIN: Objection.

3 A. To my knowledge, there aren't any other
4 than local safety codes in terms of fire occupancy
5 and exits, that type of thing.

6 Q. Let me ask it this way. Can you cite to
7 me any state or federal or local statutes, rules,
8 regulations, codes, that apply to the operation of
9 the Dungeons of Delhi --

10 MR. MAISLIN: Objection to form.

11 Q. -- as a haunted house?

12 A. Well, I believe they would be required to
13 comply with local ordinances with respect to
14 occupancy limits, number of exits, lighting of
15 exits, some of those safety issues.

16 Q. Okay. Have you reviewed any peer reviewed
17 articles or journal articles on the ownership or
18 operation of haunted houses?

19 A. I have not.

20 Q. Do you know of anywhere or any
21 organization that publishes duties of operators of
22 haunted houses?

23 A. I'm not aware of any.

24 Q. Are you familiar with how other haunted
25 houses in and around the Greater Cincinnati operate?

1 A. No, I'm not.

2 Q. Do you know one way or another whether
3 other haunted houses that operate in the Greater
4 Cincinnati area have workers in costume outside of
5 the physical facility in which the haunted house is
6 located?

7 A. I do not know.

8 Q. Is it your position that you in this case
9 believe you are qualified to testify as an expert on
10 the proper operation of a haunted house?

11 MR. MAISLIN: Objection.

12 A. Certainly with respect to the aspects of
13 this accident, yes.

14 Q. And what background, education, experience
15 do you have that gives you, in your mind, that
16 qualification?

17 A. Well, again, the specialized training, the
18 research that I've done with respect to trip and
19 fall safety issues and the investigations of many
20 different types of trip and fall cases that involve
21 environmental factors.

22 Q. Okay. And you're applying that background
23 to the operation of this haunted house?

24 A. Yes.

25 Q. Do you have your file with you today?

1 A. I do.

2 Q. May I look at that a minute?

3 A. Sure. Would you like me to describe to
4 you what's what as you go through it?

5 Q. Yes, let's go through it.

6 A. I've got an extra copy of my resume. I
7 think there was a question, maybe there was a
8 question about whether or not I had all the
9 photographs that I had taken on the day that I did
10 the inspection. So, I went into the office early
11 this morning and I printed out all the photos that
12 were on the CD and they're in this group here that's
13 under the paper clip. I intended to bring the CD
14 with me and I must have left it on my desk after I
15 printed it out. I have notes I took during
16 reviewing depositions. I have both reports, the
17 reports dated October 8, 2014 and July 2015, a
18 transcript of McKenzie Davis' deposition.

19 Q. Are you aware that she was deposed twice?

20 A. I wasn't.

21 Q. So you have the June 18 of 2015 deposition
22 transcript?

23 A. Yes.

24 Q. Okay.

25 A. I think the rest of this is just invoices

1 and then some additional copies of photographs I
2 printed out that would be in that original group and
3 then my case file record.

4 Q. Now, you also have listed in your second
5 report a number of other depositions?

6 A. Yes.

7 Q. Are those part of your file?

8 A. Yeah, they're here in a binder.

9 Q. Okay. Did those depositions that you have
10 have any notes, comments written on them, anything
11 of that nature?

12 A. No.

13 Q. What I'd like to do is obtain a copy of
14 your file and mark it as Exhibit 3 to this
15 deposition if that's not a problem for you?

16 A. No, that's not a problem.

17 Q. And we can talk after the deposition how
18 we get that done.

19 A. Sure. Would you like a copy of the CD
20 that has the photographs on it?

21 Q. I would.

22 A. We can provide that.

23 (Defendant's Exhibit 3 was identified for
24 the record.)

25 Q. How many site visits did you make to the

1 Dungeons of Delhi location?

2 A. Just the one.

3 Q. And is that the one referred to in your
4 report of October 9, 2014?

5 A. Yes.

6 Q. Did you interview anyone?

7 A. No, I did not.

8 Q. Did you ever talk to McKenzie Davis?

9 A. I have not.

10 Q. Did you receive any materials other than
11 the depositions from counsel?

12 A. I don't believe so.

13 Q. Did you receive any information from
14 counsel about the background or facts of this
15 incident?

16 MR. MAISLIN: Objection to form.

17 A. Well, I think I had a received kind of a
18 summary of the accident.

19 Q. Was that in verbal or written form?

20 A. Verbal.

21 Q. And do your notes indicate when that
22 happened?

23 A. I don't believe so.

24 Q. Do you have a recollection of when that
25 happened?

1 A. No, I don't.

2 Q. And the only two reports you've issued are
3 the October 9, 2014 and July 28, 2015 reports,
4 correct?

5 A. Correct.

6 Q. Were there any drafts of those reports
7 prepared?

8 A. I don't believe so.

9 (Defendant's Exhibit 4 was marked for
10 identification.)

11 Q. I want to show you what I've marked as
12 Exhibit 4 which is your report of October 9, 2014,
13 correct?

14 A. Yes.

15 Q. What were you asked to do?

16 A. Well, I was asked to assess the scene.
17 And at that time I think Mr. Maislin or someone else
18 in his office, I think, thought that maybe a ramp
19 was involved in this accident. And so
20 consequentially I looked for and did evaluation of
21 ramps that were at the property, but I also gave
22 attention to the entrance as well as the walkway
23 leading up to the entrance.

24 Q. Okay. Did you have an understanding,
25 prior to issuing the October 9, 2014 report, of the

1 facts of this incident?

2 A. Not of the facts as I know them to be now,
3 no.

4 Q. What is your understanding today of the
5 facts of this incident?

6 A. My understanding from review of all the
7 deposition transcripts is that McKenzie Davis was
8 with, I believe, her boyfriend and maybe one other
9 person and that they were in the walkway area
10 leading up to the entrance to the haunted house.
11 And while they were waiting outside to gain
12 entrance, one of the costume players bursted out of
13 the entrance door and chased McKenzie Davis down the
14 walkway until she tripped in the area of the
15 entrance to the walkway.

16 Q. Do you have an understanding as to who
17 this character was that chased her, who the actor or
18 person was that was in costume and chased her that
19 day?

20 A. I don't know if he was ever specifically
21 identified by name. He may have been, I'm just not
22 sure.

23 Q. The sources of this information are the
24 deposition transcripts; is that correct?

25 A. Yes.

1 Q. Anything else?

2 A. No, I believe that's it.

3 Q. So on October 9 of 2014, you went out to
4 the scene, correct?

5 A. Yes.

6 Q. And at that time you really didn't have an
7 understanding of what happened here?

8 A. No. The extent of my understanding was
9 that she had fallen on a ramp and that was the
10 extent of my knowledge.

11 Q. Okay. When you went out there, it
12 indicates on your report that you went there on
13 October 8 of 2014, correct?

14 A. Yes.

15 Q. Was the haunted house in operation at that
16 time?

17 A. I don't know. I mean, it wasn't -- I was
18 there during the daytime so it wasn't in operation
19 at that time. Whether it was in operation in the
20 evening at that time, I don't know for sure.

21 Q. Was anyone else there when you were there?

22 A. No.

23 Q. You were never there in the nighttime
24 hours; is that correct?

25 A. That's correct.

1 Q. And you understand from McKenzie Davis'
2 deposition that she was there at night, correct?

3 A. Yes.

4 Q. After dark?

5 A. Yes.

6 Q. So you have never physically observed this
7 scene as it was, as far as lighting conditions, at
8 the time that McKenzie Davis' accident occurred,
9 correct?

10 A. That's right.

11 Q. You indicate on that visit you took 24
12 photographs, correct?

13 A. Yes.

14 Q. And that's the CD you're going to provide
15 to me?

16 A. Yes, and that's also the black and white
17 printouts that are in this group.

18 Q. Okay. We're going to get to those
19 photographs in a minute. What, if anything, did you
20 conclude at the time of this first site visit as to
21 the cause or contributing factors to this particular
22 incident?

23 A. Well, I had in the third paragraph, I had
24 concluded the surface of the waiting area is old
25 asphalt and does not contain a ramp. The surface is

1 not completely level and not in particularly good
2 condition. And then I -- there were some ramps at
3 the scene, which I felt probably weren't involved in
4 this incident. But because there were ramps and I
5 was there, I did the physical measurements on them.

6 Q. Okay. Did you have an understanding at
7 the time of that site visit as to specifically where
8 it was that McKenzie Davis claimed she fell?

9 A. I think the only information I had was it
10 was on a ramp in the entrance area.

11 Q. Okay. I'm going to take you through some
12 photos now. I will tell you I've only got 19
13 pictures that were produced to me, not 24. So after
14 we're finished with these, we'll look at your
15 pictures and see what we're missing.

16 A. Sure.

17 Q. The one you have marked as Exhibit A is
18 simply an aerial Google map that you obtained,
19 correct?

20 A. Yes.

21 Q. And you made some notes on there about
22 where things were located, correct?

23 A. Yes.

24 (Defendant's Exhibit 5 was marked for
25 identification.)

1 Q. Let me show you what I have marked as
2 Exhibit 5 to your deposition. And on the one that
3 was produced in your report, there is a letter B
4 circled in the upper right-hand corner. Now, it's
5 not on the color copy that I've printed out here but
6 you recognize that as the same document that's
7 marked as Exhibit B to your report?

8 A. Yes.

9 Q. Okay. And what is it that you understand
10 we're looking at here?

11 A. Well, it's the entrance to the Dungeon and
12 Dragons [sic] haunted house event that I believe is
13 located at the southwest corner of this warehouse.

14 Q. Are you able to tell us, as you look at
15 this today, where it is you believe McKenzie Davis
16 fell?

17 A. Generally. I mean, it's not the best
18 photograph to demonstrate that.

19 Q. Let me ask you this: How do you know,
20 what source of knowledge do you have as to
21 specifically where she fell?

22 A. It's based on witness descriptions in the
23 depositions.

24 Q. Okay. You've never gone out there with
25 her or anyone else to have her point out to you

1 precisely where she claimed she fell?

2 A. I have not.

3 Q. So you took the descriptions and the
4 exhibits from the depositions and that's how you
5 reached your conclusion as to the location of where
6 she tripped or where she fell, correct?

7 A. Yes.

8 Q. And where is it on Exhibit 5 that you
9 believe the entrance to the haunted house structure
10 is?

11 MR. MAISLIN: Objection.

12 A. The entrance to the canopy area with the
13 enclosed walkway with kind of a wooden railing is
14 here. Do you want to mark something?

15 Q. No, go ahead.

16 A. And then the actual door entrance is down
17 at the far end of that walkway.

18 Q. Okay. So we're looking at the covered
19 walkway on the right, let's say, quarter of the
20 picture, correct?

21 A. Yes.

22 Q. Do you have an understanding as to what
23 the black structure is that's shown in the middle of
24 that photograph?

25 A. I believe that's the ticket booth.

1 (Defendant's Exhibit 6 was marked for
2 identification.)

3 Q. Let me show what we've marked as
4 Exhibit 6. And I'll also show you the black and
5 white copy that we got attached to your report that
6 has the letter C written in the upper right-hand
7 corner; do you see that?

8 A. Yes.

9 Q. Do you agree that Exhibit 6 is a color
10 copy of the same photograph that's marked as letter
11 C in your report?

12 A. Yes.

13 Q. And what is it that you understand we're
14 looking at here?

15 A. Again, this is the canopy area with the
16 wooden railing and is the patron waiting area to
17 gain entrance to the haunted house event. And
18 obviously there's big lettering above that canopy
19 that shows enter with an arrow pointing to where the
20 entrance door is.

21 Q. Okay. And do you have an understanding,
22 as you look at this photograph, as to where McKenzie
23 Davis was at the time this character, as I think you
24 stated earlier, burst out of the door and began
25 chasing her?

1 A. It's my understanding that she was near
2 the far end of the canopy area close to the entrance
3 door.

4 Q. You have a pen there. Can you mark with
5 an X or let's make it as a circle as to where you
6 believe she was when that character came out the
7 door?

8 A. You want me to do it on the color one?

9 Q. Yes.

10 A. That's not going to show up.

11 Q. Or an arrow if you can put it on, just
12 something so we know where it is you believe that
13 that occurred that may be visible if we look at it
14 later.

15 A. (Witness complied).

16 Q. So you have drawn a circle on the dark
17 part and then an arrow to it in case it's not
18 visible?

19 A. Yes.

20 Q. And, again, that information came from the
21 deposition transcripts; is that correct?

22 A. Yes.

23 Q. What is your understanding as to how many
24 other people were in line at that time for the
25 haunted house?

1 A. I believe it was maybe only McKenzie and
2 her boyfriend and another friend and maybe a couple
3 other people, but there wasn't a long line, not a
4 lot of people there.

5 Q. Okay. So, again, just to follow up with
6 that one, it's your understanding, and I don't want
7 to put words in your mouth, but McKenzie Davis would
8 have entered this enclosed area from really off the
9 left-hand side of the picture and proceeded along
10 that area to the area where you marked?

11 A. Correct.

12 Q. And that's approximately where she was
13 when this character came out the door?

14 A. Yes.

15 (Defendant's Exhibit 7 was marked for
16 identification.)

17 Q. Let me show you what I have marked as
18 Exhibit 7. And I'm also going to show you a black
19 and white photograph that was produced to us with
20 your report that has the letter D circled in the
21 upper right-hand corner. Do you agree that the
22 color copy is a copy of the same photograph that's
23 marked D on your report?

24 A. Yes.

25 Q. And what is it that we are looking at

1 here?

2 A. Well, again, it's the canopy area enclosed
3 with the wood railing and is the walkway entrance
4 towards the entrance to the haunted house.

5 Q. Now, the surface of the ground in that
6 walkway area is asphalt, correct?

7 A. Yes.

8 Q. And it appeared to you to be older
9 asphalt, correct?

10 A. Yes.

11 Q. Something that's been there a while?

12 A. Yes.

13 Q. But you did not investigate or determine
14 who the owner of that property --

15 A. I did not.

16 Q. -- was, correct?

17 A. Correct, I did not.

18 Q. And you did not investigate or determine
19 who was responsible for the maintenance and upkeep
20 of that property, did you?

21 A. I did not.

22 Q. At the time you took this photograph on
23 your October 8, 2014 visit, did you notice or
24 identify any defects or problems with the asphalt
25 that you considered to be a danger to patrons?

1 A. You say at the time of my October --

2 Q. Yes.

3 A. Well, yes, as I read from my October 8th
4 report, that there was -- that the asphalt in the
5 walkway area was not in good condition.

6 Q. And what was wrong with it?

7 A. Well, it was cracked in quite a few places
8 and then right at the entrance area there was an
9 area -- there was a depression that had contained --
10 was stained as a result of accumulated water there.

11 Q. And that's the entrance to the walkway
12 area?

13 A. Yes.

14 Q. And do we see that on this photograph,
15 Exhibit 7?

16 A. Yes.

17 Q. Where is that? Would you mark that,
18 circle that, please?

19 A. The depression area or --

20 Q. Well, whatever -- yeah, that depression
21 area we just talked about.

22 A. Okay. I've circled that area.

23 Q. Okay. And that's in the lower left-hand
24 corner of the photograph?

25 A. Yes.

1 Q. And I know I'm getting ahead of myself
2 here, but have you ultimately reached the conclusion
3 that that depression was a contributing factor to
4 McKenzie's falling accident?

5 A. Obviously there's no way I would have
6 direct specific knowledge of that, but I can say
7 that that was a hazard that could have been a
8 contributing factor.

9 Q. And I'm asking as you know today, not only
10 as you knew back on October 8 of 2014.

11 A. Yes. Yes, I understand.

12 Q. Is there anything else about Exhibit 7
13 that you found particularly noteworthy or important
14 to your opinions in this case?

15 A. Well, the photograph also shows the
16 cracking of the pavement in the area of the walkway.

17 Q. Okay. And where do you see cracking?

18 A. Well, it's pretty much everywhere, but
19 adjacent to the depression area that I already
20 circled.

21 Q. Okay. And these are surface cracks; is
22 that correct?

23 A. Yes.

24 Q. Did you measure any of the cracks to
25 determine if there was an actual offset or if they

1 were simply level surface cracks?

2 A. I did not.

3 Q. Is it your opinion in this case that
4 surface cracking of the driveway caused or
5 contributed to this accident?

6 A. Well, again, I don't have firsthand
7 knowledge whether it was or was not, but it could
8 have been a contributing factor.

9 Q. But you can't say that to a probability it
10 was?

11 A. I don't know, correct.

12 Q. And same with that depression area on this
13 picture, you can't say to a probability that that
14 was a contributing factor to this accident?

15 A. Correct. I mean, there are other hazards
16 here. There's the rather flimsy railing and there's
17 a post. Did that contribute? Did the flange on the
18 bottom of the siding there, did that contribute? I
19 don't know, but there's obviously multiple things
20 that could have contributed to a fall.

21 Q. Okay. But none of those things, as we sit
22 here today, can you say to a reasonable degree of
23 probability did contribute to this fall; am I
24 correct?

25 A. That's right. And that's because I don't

1 think anyone has been able to provide a detailed
2 description as to -- other than an unevenness of the
3 pavement or a defect in the pavement contributed.

4 And specifically what, I just don't know.

5 (Defendant's Exhibit 8 was marked for
6 identification.)

7 Q. Mr. Dehus, I'm going to show you what I've
8 marked as Exhibit 8 and I'm also going to show you a
9 black and white copy that was produced with your
10 report that has the handwritten letter E and a
11 circle in the top left-hand corner. Do you agree
12 that the color copy is a copy of that same
13 photograph that was marked Exhibit E to your report?

14 A. Yes.

15 Q. What, if anything, about this photograph
16 did you find important or utilized in developing
17 your opinions in this case?

18 A. Well, this photograph is a view looking, I
19 believe, looking west from the entrance door and,
20 again, shows the cracked condition of the pavement
21 and the -- what I refer to as just rickety wooden
22 railing sections that were used to enclose that
23 area.

24 Q. The surface of the ground in the inside of
25 this walkway is asphalt, correct?

1 A. Yes.

2 Q. It appears to be some kind of planks, but
3 would you agree with me that's just because of the
4 shadow from the railings running across the surface
5 of the asphalt?

6 A. That's correct.

7 Q. And you understand that the pieces that we
8 see in this photograph that are sort of standing
9 against the wall are other areas of gating that were
10 used in other parts of this event but were simply
11 placed into this walkway area during the daytime
12 when the facility wasn't open?

13 A. I don't have firsthand knowledge of that,
14 but that would appear to be the case.

15 Q. Okay. You don't have any evidence to
16 indicate that these pieces we see sitting here were
17 in those locations or that condition at the time of
18 this incident, do you?

19 A. No.

20 Q. Anything else about this photograph that
21 was of importance to you in formulating your
22 opinions in this case?

23 A. I don't believe so.

24 (Defendant's Exhibit 9 was marked for
25 identification.)

1 Q. I'm going to show you what was marked as
2 Exhibit 9, and I'm also going to show you a black
3 and white copy of what was presented to us with your
4 report with the letter F circled in the upper
5 right-hand corner. Would you agree with me that the
6 color copy Exhibit 9 is, in fact, an accurate color
7 copy of the black and white marked with the letter
8 F?

9 A. Yes.

10 Q. And can you explain to me what, if
11 anything, in Exhibit 9 you found important in
12 arriving at your opinions and conclusions in this
13 case?

14 A. Yes. Well, this is a closer-up vision or
15 view, I should say, of the entrance of the walkway
16 area and it gives a better view of the area of
17 depression and the deteriorated pavement that I had
18 described in one of the previous photographs.

19 Q. Okay. Anything else?

20 A. I don't believe so.

21 Q. And you understand, am I correct, that
22 this is the area where McKenzie Davis would have
23 entered the walkway that leads to the entrance of
24 the haunted house structure?

25 A. Yes.

1 (Defendant's Exhibit 10 was marked for
2 identification.)

3 Q. I'm going to show you what I have marked
4 as Exhibit 10, and I'm also going to show you a
5 black and white of that photograph that was attached
6 to your report with the circled letter G on it; do
7 you see that?

8 A. Yes.

9 Q. And do you agree that the color copy is an
10 accurate copy of what was marked G to your report?

11 A. Yes.

12 Q. What do you understand this to depict?

13 A. This is showing a ramp to an entrance to
14 the warehouse at the -- I believe it would be on the
15 north side of the structure.

16 Q. To your knowledge, as you sit here today,
17 do you believe this area had anything to do with
18 McKenzie Davis' accident?

19 A. No.

20 Q. Now, I've got another document here that
21 was also marked with a handwritten letter G to which
22 I do not have a color copy. It was not provided to
23 me, but it's the second document marked with the
24 letter G that shows a -- well, I'll ask you. What
25 does that show, to your knowledge?

1 A. Well, it shows the sidewalk area on what I
2 believe the west side of the warehouse complex and
3 there is a ramp in the sidewalk at that location
4 and, again, I believe has nothing to do with this
5 accident.

6 (Defendant's Exhibit 11 was marked for
7 identification.)

8 Q. I'm going to show you what has been marked
9 as Exhibit 11. Let me ask you in looking at
10 Exhibit 11 what that is showing and, to the best of
11 your knowledge, as you sit here today, what are we
12 looking at?

13 A. I believe that's showing the doorway
14 entrance to the event.

15 Q. Okay. Where the patrons would enter?

16 A. Yes.

17 Q. And is this at the end of that walkway?

18 A. Yes.

19 Q. Okay. What, if anything, about that
20 picture was important to you in generating your
21 opinions or conclusions in this case?

22 A. It's just to document the area where the
23 character would have exited the interior and entered
24 the walkway area.

25 Q. Okay. Is there anything that we see in

1 this picture that you believe caused or contributed
2 to McKenzie Davis' fall?

3 A. No.

4 (Defendant's Exhibit 12 was marked for
5 identification.)

6 Q. Let me show you Exhibit 12. And what is
7 that photograph showing?

8 A. Photograph 12 is another view showing the
9 entrance doorway to the event.

10 Q. Okay. Is there anything particular that
11 we see in that photograph that contributed to your
12 opinions in this case?

13 A. No.

14 (Defendant's Exhibit 13 was marked for
15 identification.)

16 Q. Let me show you Exhibit 13. What are we
17 looking at there?

18 A. I believe that's just a third view of the
19 entrance door to the event.

20 Q. And, again, is there anything in that
21 photograph that contributed to your opinions in this
22 case?

23 A. No.

24 (Defendant's Exhibit 14 was marked for
25 identification.)

1 Q. Let me show you Exhibit 14, and if you can
2 tell me what we're looking at there?

3 A. That's another view of the entrance door
4 to the event.

5 Q. Okay. Again, is there anything that
6 contributed to your opinions in this case?

7 A. No.

8 (Defendant's Exhibit 15 was marked for
9 identification.)

10 Q. Let me show you Exhibit 15 and tell me
11 what we're looking at there.

12 A. Exhibit 15 is the view of the ticket booth
13 that is located just west to the walkway entrance.

14 Q. And do you understand this is where
15 McKenzie Davis would have purchased tickets to enter
16 the haunted house?

17 A. Yes.

18 Q. Is there anything shown in that photograph
19 that you utilized to support or contribute to your
20 opinions in this case?

21 A. No.

22 (Defendant's Exhibit 16 was marked for
23 identification.)

24 Q. Let me show you Exhibit 16. And is that
25 another picture of the ticket booth?

1 A. It is.

2 Q. Just from a slightly different angle than
3 the last photograph?

4 A. Yes.

5 Q. Is there anything in this photograph that
6 you utilized to support or contribute to your
7 opinions in this case?

8 A. Only that it provides additional
9 documentation of the deteriorating condition of the
10 pavement.

11 (Defendant's Exhibit 17 was marked for
12 identification.)

13 Q. Let me show you No. 17 and ask you what
14 that photograph shows?

15 A. That's another view of the sidewalk ramp
16 along the west side of the warehouse.

17 Q. And does that also show the ticket and the
18 side of the ticket booth on the right-hand side?

19 A. It does.

20 Q. Do you know if McKenzie Davis walked along
21 that sidewalk at any point in the evening?

22 A. I have no knowledge that she did.

23 Q. Okay. Is there anything in that
24 photograph that you utilized to support or
25 contribute to your opinions in this case?

1 A. No.

2 (Defendant's Exhibit 18 was marked for
3 identification.)

4 Q. Let me show you Exhibit 18 and ask you
5 what that shows?

6 A. That's another view of the -- I believe it
7 would be the southwest corner of the warehouse
8 complex. It shows the ramp, sidewalk ramp just
9 described in the previous photographs and also shows
10 another view of the end of the ticket booth.

11 Q. Okay. Is there anything in that
12 photograph that you utilized to support or
13 contribute to your opinions in this case?

14 A. No.

15 (Defendant's Exhibit 19 was marked for
16 identification.)

17 Q. Let me show you what I've marked as
18 Exhibit 19. Can you tell me what that is?

19 A. Exhibit 19 is a view of the north end of
20 the warehouse complex and shows an old ambulance
21 that I assume was used in the event to some extent
22 and a view of the ramp that I described earlier.

23 Q. Is there anything -- well, let me ask you:
24 To your knowledge, does this area of the building
25 have any connection to McKenzie Davis' accident?

1 A. I don't believe so.

2 Q. Is there anything shown in this picture
3 that you utilized or contributes to your opinions in
4 this case?

5 A. No.

6 (Defendant's Exhibit 20 was marked for
7 identification.)

8 Q. Let me show you Exhibit 20. And just to
9 speed up the process, is that another shot of the
10 same ramp we just looked at in No. 19 only a little
11 closer up?

12 A. Yes.

13 Q. Is there anything in that photograph that
14 you utilized or contributes to your opinion in this
15 case?

16 A. No.

17 (Defendant's Exhibit 21 was marked for
18 identification.)

19 Q. Let me show you Exhibit 21. What are we
20 looking at there?

21 A. Exhibit 21 shows an entrance door along
22 the north side of the complex that is at the end of
23 the ramp that's shown in Exhibit 20.

24 Q. Okay. Fair to assume that there's nothing
25 in that picture that contributed to your opinions in

1 this case?

2 A. Correct.

3 (Defendant's Exhibit 22 was marked for
4 identification.)

5 Q. Let me show you what I've marked as
6 Exhibit 22. What is that showing us?

7 A. That's a view looking to the south along
8 the west side of the warehouse complex and shows the
9 ramp going down towards the parking area.

10 Q. Is there anything in that photograph that
11 you utilized or supports your opinions in this case?

12 A. Only that it, again, documents the
13 deteriorated condition of the pavement of the area
14 at the entrance.

15 (Defendant's Exhibit 23 was marked for
16 identification.)

17 Q. Let me show you Exhibit 23 which appears
18 to be another view of the walkway heading towards
19 the entrance to the haunted house, correct?

20 A. Yes.

21 Q. Other than what we've already discussed in
22 looking at the other photographs of this area, is
23 there anything here that you utilized to support or
24 contribute to your opinions in this case?

25 A. No.

1 Q. Now, those are the 19 photographs we were
2 provided, and I understand you had 24. Are you able
3 to go through your stack of 24 and pick out the ones
4 that we have not identified so far today?

5 A. I'll give it a try. See how good my
6 memory is. I believe these two weren't included.
7 There's some others here that are just kind of like
8 almost duplicates.

9 Q. Let me ask you just very generally, you
10 just looked through the 24 photos that you printed
11 out today. Are there any photos that we haven't
12 discussed that show an area or condition that you
13 utilized to support your opinions in this case?

14 A. No.

15 Q. Okay. After your -- well, let me go back
16 to your October 9 of 2014 report. You indicate
17 starting in the bottom paragraph of the first page
18 there was a ramp just to the west of the ticket
19 booth area leading to a sidewalk along the west side
20 of the building. Is that the ramp we've looked at
21 in some of these photographs?

22 A. It would be the ramp that is shown in
23 photograph 22, among others.

24 Q. Okay. You indicate in that paragraph that
25 you did some measurements of the slope; is that

1 correct?

2 A. Yes.

3 Q. And that the ramp is unsafe and does not
4 meet building code requirements, correct?

5 A. Correct.

6 Q. Does the condition of that ramp and
7 whether or not it's safe and whether or not it meets
8 building code requirements have any connection in
9 your mind to the cause of McKenzie Davis' accident?

10 A. No.

11 Q. Okay. Photograph H, which I don't
12 remember which number that came out to be on ours,
13 you say there's a second ramp. And is this the one
14 in the back of that building by where that ambulance
15 was?

16 A. Yes, that's shown in photograph 20, among
17 others.

18 Q. Okay. So you would agree that that
19 mention in your report about the second ramp, again,
20 has nothing to do with causing or contributing to
21 the cause of McKenzie Davis' accident?

22 A. Correct.

23 Q. So at the time you submitted your report
24 dated October 9 of 2014, the opinions and
25 conclusions that you arrived at were set forth in

1 the report, correct?

2 A. Yes.

3 Q. You provided the photographs to counsel,
4 correct?

5 A. Yes.

6 Q. But even with that, you were not able to
7 provide an opinion to a reasonable degree of
8 probability as to what exactly caused McKenzie
9 Davis' accident, correct?

10 MR. MAISLIN: Objection to form.

11 A. That's correct.

12 Q. So you submit the report. Did you submit
13 it to counsel on or about October 9, the date listed
14 on the report itself?

15 A. I would assume so.

16 Q. After submitting that report, did you have
17 any conversations with counsel about what was
18 contained in the report?

19 A. Not that I recall. There may have been a
20 phone call, there may not have been, I just don't
21 recall.

22 Q. What did you do next after the October 9,
23 2014 report was submitted?

24 A. I did nothing until I had received the
25 deposition transcripts to review.

1 MR. RINEAR: Let's mark this.

2 (Defendant's Exhibit 24 was marked for
3 identification.)

4 Q. Let me show you Exhibit 24 and ask you if
5 that is, in fact, a true copy of your July 28, 2015
6 report?

7 A. Yes.

8 Q. Now, you indicate there that on May 15 of
9 '14 you received a number of deposition transcripts,
10 correct?

11 A. Yes.

12 Q. And then on July 22 of '15 you received
13 McKenzie Davis' deposition transcript, correct?

14 A. Yes.

15 Q. So just to make sure I'm correct, after
16 your site visit and your October of '14 report, you
17 had no other activity on this matter until mid May
18 when these depositions came to you?

19 A. Correct.

20 Q. Okay. What, if anything, were you
21 requested to do at or around that time on this case?

22 A. Simply to review these deposition
23 transcripts and then see if I could provide any
24 additional opinions as a result of reviewing those,
25 combining that with the information from the scene

1 inspection in 2014.

2 Q. I think we covered this before, but I want
3 to make sure. Did you, in fact, review all of these
4 deposition transcripts?

5 A. I did.

6 Q. Do you agree with me that your
7 understanding of the facts of what happened in this
8 accident came from those deposition transcripts?

9 A. Yes.

10 Q. And not from any other source?

11 A. Yes.

12 Q. Once you reviewed those depositions, did
13 you draft this report?

14 A. Yes.

15 Q. Is that May 15 of '14 date a typo? Would
16 that have come in May of 2015, because you did your
17 site visit in October of 2014?

18 A. Yes, that's correct. Thank you.

19 Q. Just so we're clear on that, that was
20 actually May of '15 that you got those depositions in?

21 A. Yes.

22 Q. By the time you got the depositions, the first
23 batch in in May of '15, up to the time you issued
24 this July 28, 2015 report, do you recall having any
25 conversations with counsel?

1 A. I believe I did talk with him after
2 reviewing the depositions, and then he requested a
3 follow-up report based on what I had learned from
4 the depositions and combining that with the site
5 inspection the year before.

6 Q. Do you have any notes of that
7 conversation?

8 A. No.

9 Q. What is your best recollection of what, if
10 any, information you received from counsel in that
11 discussion?

12 A. My only recollection is I told him what my
13 conclusion was as a result of my review of the
14 depositions, and then he asked me to put it in
15 report form.

16 Q. Did the conclusions you indicated -- was
17 it Mr. Maislin you spoke to, I'm sorry?

18 A. Yes.

19 Q. Did the conclusions you indicated to him
20 in that phone call, are they the same as you wrote
21 up then in your July 28, 2015 report?

22 A. Yes.

23 Q. I did forget to ask you one question
24 earlier. When you did your site visit, was anyone
25 else with you?

1 A. No.

2 Q. Okay. I'd like to take you through your
3 July 28, 2015 report. Your first paragraph you
4 indicate what you were requested to do; is that
5 correct?

6 A. Yes.

7 Q. And then under A, B and C you indicate the
8 steps of your investigation into this incident,
9 correct?

10 A. Yes.

11 Q. Now, on the last paragraph of that page
12 you indicate again on your original site visit you
13 did not have the details of the accident, and then
14 you go on on the next page to begin to delineate
15 what your opinions are in this case, correct?

16 A. Yes.

17 Q. The first full paragraph on the second
18 page you indicate and you state here that McKenzie
19 was chased down the enclosed waiting line area where
20 she tripped and fell at the entrance to this waiting
21 line area that had the defects noted above, correct?

22 A. Yes.

23 Q. At the time you wrote this report and as
24 you sit here today, do you know exactly where she
25 tripped?

1 MR. MAISLIN: Objection.

2 A. Not in any more detail than is described
3 in that paragraph.

4 Q. Okay. I'm going to jump ahead to subpart
5 B of your opinion section where you state, it's
6 apparent that there is an irregularity in the
7 pavement at the entrance of the waiting line where
8 McKenzie Davis reportedly fell which was a
9 contributing factor to her fall. Did I read that
10 correctly?

11 A. Yes.

12 Q. How do you know that?

13 A. I believe she stated that there was
14 unevenness or an area in the pavement that caused
15 her to fall at that location.

16 Q. Okay. But you can't identify on any of
17 your photographs exactly where that is, can you?

18 A. Not in a pinpoint location. I mean,
19 there's -- as I described, there was a depressed
20 area. There was areas of cracked pavement. And
21 which specific area, I don't know and I don't think
22 she knows.

23 Q. Okay. But then you go on in that
24 paragraph to say this should have been repaired,
25 correct?

1 A. Yes.

2 Q. What should have been repaired?

3 A. The depression and the cracks in the
4 pavement.

5 Q. Okay. So you believe the entire surface
6 of this whole area should have been repaired?

7 A. Well, certainly the areas where
8 pedestrians are being directed.

9 Q. Okay. Is that your opinion or do you
10 believe there is some local building code or other
11 code that would require pavement in this condition
12 to be repaired?

13 A. I don't know if there's specific
14 applicable code, because this is obviously on
15 private property and this is kind of a unique
16 occupancy, but I think it's very fair to state that
17 if you are operating an event and you're going to be
18 directing hundreds of people through an area where
19 there are trip and fall hazards in the area that
20 you're specifically funneling them into, that those
21 areas should be -- that area should be in good
22 condition.

23 Q. Do you have any evidence that Delhi
24 Township where this property is located ever
25 instructed verbally or in writing the owner of this

1 building to make any repairs to the surface of the
2 asphalt in the areas that you're talking about?

3 A. I have no knowledge of that one way or the
4 other.

5 Q. Are you aware that Delhi Township trustees
6 and the Delhi Township police department were
7 involved to some degree in this haunted house?

8 A. Yes.

9 Q. But you have no evidence that any police
10 officer, township trustee or other official ever
11 instructed the owner of this building or the
12 operators of this haunted house to do any repairs on
13 this concrete?

14 A. Not to my knowledge.

15 Q. And you have no evidence to indicate that
16 there's ever been any other accidents or incidents
17 in this area due to the condition of the asphalt,
18 correct?

19 A. I have no knowledge, correct.

20 Q. And you have no knowledge of any
21 complaints by any patron of this haunted house about
22 the condition of this asphalt, correct?

23 A. That's correct.

24 Q. Now, I want to take you then to paragraph
25 A of your opinion section. I'm sorry, let me take

1 you back to paragraph B, one more question. When
2 you say this should have been repaired, who should
3 have repaired it?

4 MR. MAISLIN: Objection.

5 A. I don't know what the lease agreements
6 were between the parties so I don't know whose
7 responsibility it would have been.

8 Q. So you have no evidence to indicate that
9 my clients, the operators of a non-profit, all
10 volunteer charity haunted house had any obligation
11 to repair or maintain the surface of that asphalt,
12 correct?

13 MR. MAISLIN: Objection.

14 A. Well, I don't know that they had the
15 responsibility to make the repair. I think they had
16 the responsibility to make sure that what they're
17 doing, the conditions are safe, and then whose
18 responsibility it is to make the repairs is another
19 issue.

20 Q. But isn't the ultimate determining factor
21 on whether it is safe or not the local authorities
22 having jurisdiction?

23 MR. MAISLIN: Objection.

24 A. No, I would disagree. I think the
25 operator of an event has responsibility to make sure

1 that where they are operating is safe for their
2 patrons.

3 Q. And your opinion is the areas in question
4 were not safe?

5 A. Yes, because of the defects in the
6 pavement surface.

7 Q. Okay. Let me take you back to paragraph

8 A. You state there that patrons attending a
9 Halloween haunted house event such as the Dungeons
10 of Delhi would expect to be startled and potentially
11 scared by the theatrics and setting of the event,
12 correct? Did I read that correctly?

13 A. Yes.

14 Q. You then state, and, again, I'm going to
15 quote, for the safety of the patrons, none of the
16 fright actors should ever have physical contact with
17 or chase the patrons. Did I read that correctly?

18 A. Yes.

19 Q. Do you have any evidence at all in this
20 case that any what you call fright actor had
21 physical contact with McKenzie Davis?

22 A. No.

23 Q. And on what basis do you opine that the
24 fright actors should never chase patrons?

25 A. Because of the trip and fall hazard that's

1 generated simply by the process of chasing a patron
2 that is not expecting to be chased and who would be
3 fleeing in a frightened manner sets up a perfect
4 scenario for an accident to occur.

5 Q. So is it your opinion, Mr. Dehus, that
6 operators of haunted houses should never at any time
7 permit characters or fright actors to chase patrons?

8 A. Yes.

9 Q. And is that your opinion or is that based
10 on some published or known industry standard for the
11 operation of haunted houses?

12 MR. MAISLIN: Objection to form.

13 A. I don't know of any published standards.
14 I think general safety practices would tell anyone
15 that that would be a very unwise and unsafe thing to
16 do.

17 Q. You next state, and I quote, patrons would
18 not be expecting any of the scare events to occur
19 until actually entering the facility. Did I read
20 that correctly?

21 A. Yes.

22 Q. And what is your basis for that opinion?

23 A. Very simply, I mean, the venue clearly
24 tells patrons, as shown in photograph 23, you enter
25 here. And it's reasonable for, I think, the patrons

1 to assume that that's where it's going to start.

2 Q. Okay. So that's your opinion as to what a
3 patron would or would not be expecting at a haunted
4 house?

5 A. Yes.

6 Q. Is that based on anything other than your
7 opinion?

8 A. I don't think there's any written
9 guidelines or information concerning that. That's
10 my opinion.

11 Q. Do you know from reading McKenzie Davis'
12 deposition whether she encountered any other
13 characters in costume outside of this haunted house?

14 MR. MAISLIN: Objection.

15 A. Not that I recall.

16 Q. Is it your opinion that a haunted house
17 operator never should permit characters to approach
18 patrons outside of the physical facility?

19 A. Well, certainly not to chase them.

20 Q. You then state, and I quote, for one of
21 the event actors to suddenly spring from the
22 entrance door and chase a patron down the narrow
23 enclosed waiting line area is an improper,
24 unnecessary and hazardous action which is more than
25 likely to endanger the patrons. Did I read that

1 correctly?

2 A. Yes.

3 Q. And what's the basis for that opinion?

4 A. Well, I think it's all the things we've
5 already discussed. One is the hazard that's created
6 by the surprise and fright and chasing a person and
7 having a surface that's not in good condition that
8 could contribute to a fall and injury.

9 Q. Now, you're aware that McKenzie Davis was
10 with at least one other person when this happened,
11 correct?

12 A. Yes.

13 Q. Did that other person turn and run?

14 A. I don't believe so.

15 Q. Do you agree if McKenzie Davis would have
16 just stood there, this wouldn't have happened?

17 MR. MAISLIN: Objection.

18 A. I agree.

19 Q. Did McKenzie Davis do anything wrong?

20 A. Well, I don't think so. As you suggested
21 in your last question, if she had stood there and
22 not run in fright, this accident wouldn't have
23 occurred. But I don't think she can be faulted for
24 a natural fright and flight reaction which is a
25 human response. And some people are going to be

1 more inclined to that type of response than others.
2 But to say she's at fault because she had that human
3 response I don't think would be accurate.

4 Q. Do you believe she overreacted to the
5 situation?

6 MR. MAISLIN: Objection.

7 A. I don't.

8 Q. So you don't believe she did anything to
9 cause or contribute to her own accident?

10 MR. MAISLIN: Objection; asked and
11 answered.

12 A. Again, I don't -- I mean, her accident was
13 the result of her fleeing in fright and I don't
14 think that she can be found at fault in any way for
15 having a natural human reaction.

16 Q. Do you agree that you have no evidence
17 that this character ever touched McKenzie Davis?

18 MR. MAISLIN: Asked and answered.

19 A. That's correct.

20 Q. Do you agree you have no evidence that
21 this character ever came closer than 15 feet to her?

22 MR. MAISLIN: Objection.

23 A. I don't recall what the closest distance
24 was, but that may be accurate.

25 Q. If, and we can all confirm this with the

1 deposition, if McKenzie Davis testified that this
2 character never came closer than 15 feet to her, do
3 you have any reason to dispute that?

4 A. No.

5 Q. As we sit here today, do you have any
6 additional work planned or anticipated on this case?

7 A. I do not.

8 Q. Do you have any other opinions that we
9 have not discussed?

10 MR. MAISLIN: Objection to form.

11 A. I'm not withholding any opinions and I
12 think you've been thorough in your questioning, but
13 as always, it's always possible that someone, either
14 you or Mr. Maislin, could ask a question that I may
15 have an opinion about that's not been raised here
16 today that none of us would anticipate.

17 Q. Well, I understand that unanticipated
18 things could come up, but I want to know as you sit
19 here today, do you believe there are any other
20 expert opinions that you are anticipating giving in
21 this matter that we haven't discussed?

22 A. No.

23 Q. What is your rate for the work performed
24 on this case?

25 A. My hourly rate for the work performed for

1 consulting, inspection, testing, report preparation
2 and consultation is 150 per hour. My fee for
3 testimony in either trial or deposition is double my
4 hourly rate with a three-hour minimum.

5 Q. I have not had a chance to look thoroughly
6 at your testimony history sheet, but have you
7 performed other investigations or given other -- or
8 been involved in other cases for the Maislin firm?

9 A. Yes.

10 Q. If they're slip and fall cases or trip and
11 fall cases, would they all be listed on that sheet?

12 A. Yes.

13 Q. As you sit here today, do you believe
14 there are other cases, other than trip and fall or
15 slip and fall cases, that you have been involved in
16 with the Maislin firm?

17 A. We could call them weird things that we
18 look at. As I sit here, I'm trying to think. Other
19 members of my firm may have provided services with
20 respect to vehicle accident reconstruction and fire
21 reconstruction, but outside of that I can't think of
22 any others.

23 Q. If I was to ask you to look into that
24 issue, do you have a method by which you can
25 determine in your office the specific cases that

1 have been investigated for this firm by all members
2 of your firm?

3 A. Yeah, that could be done.

4 Q. I will follow up with Mr. Maislin, but I
5 will tell you I am requesting that you provide that
6 listing for me?

7 A. Okay. You know, I would think it would be
8 fair that I would charge you for the secretarial
9 time it would take to do that because it would take
10 some time and work.

11 Q. Well, that's why I'm asking you what your
12 system is. I don't know if it's something where you
13 can just ask your computer to sort by law firm, take
14 10 minutes, or if it's something you're telling me
15 is going to take 20 or 30 hours of research to look
16 at?

17 A. It's not going to take 20 or 30 hours, but
18 I'm not sure how long it would take, to be honest
19 with you. Obviously our records are all
20 computerized, but it would take at least an hour or
21 two I would think.

22 Q. Okay. Have you testified in court, I
23 mean, you personally, not your company, for the
24 Maislin firm?

25 A. I don't think so.

1 Q. I think that's all the questions I have.
2 Just more thing while we're on the record just so I
3 can kind of summarize. I am asking about your work
4 for this firm, if you could produce that. Again,
5 I'm going to follow up with Mr. Maislin for this,
6 but I am going to request that you provide your
7 federal court testimony history.

8 MR. MAISLIN: You'll send a letter?

9 Q. Yeah, I will. As if this was a federal
10 court case and you were asked to produce it, I'd ask
11 you to produce the same thing. And third, I am
12 asking you to produce or make me a copy, if you want
13 to, of your CD of photographs.

14 A. Yes. Sure.

15 Q. Okay. So I will follow up with those
16 three things with Mr. Maislin, but I'm just letting
17 you know.

18 A. Yes. That's fine.

19 Q. And then finally, I did ask to mark your
20 file as an exhibit. I would ask if you could put it
21 back in order so we make sure that everything is in
22 there and then we'll discuss off the record the best
23 way to actually produce that, okay?

24 A. Sure. Yes.

25 MR. RINEAR: That's all I have.

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(Witness excused.)

(Deposition concluded at 11:00 a.m.)

Signature expressly waived

LARRY DEHUS

DATE

**REPORTER'S NOTE: MR. DEHUS TO SUPPLY A COPY OF
HIS FILE, MARKED AS EXHIBIT 3, TO MR. RINEAR.

1)

2 STATE OF OHIO)

3)

4 I, Mindy Davis, Notary Public for the State of
5 Ohio, do hereby certify:

6 That the witness named in the deposition, prior
7 to being examined, was by me duly sworn;

8 That said deposition was taken before me at the
9 time and place therein set forth and was taken down
10 by me in shorthand and thereafter transcribed into
11 typewriting under my direction and supervision;

12 That said deposition is a true record of the
13 testimony given by the witness and of all objections
14 made at the time of the examination.

15 I further certify that I am neither counsel for
16 nor related to any party to said action, nor in any
17 way interested in the outcome thereof.

18 IN WITNESS WHEREOF I have subscribed my name
19 and affixed my seal this 30th day of December, 2015.

20

21

22 MINDY DAVIS

23 Notary Public

24 My Commission expires: 04/03/16

25